

1 **BEFORE THE ARIZONA MEDICAL BOARD**

2 In the Matter of

3 **RICHIE P. BAST, M.D.,**

4 Holder of License No. **14854**  
5 For the Practice of Allopathic Medicine  
6 In the State of Arizona.

Board Case No. MD-09A-14854-MDX

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

(License Revocation)

7 On June 3, 2009, this matter came before the Arizona Medical Board ("Board") for  
8 oral argument and consideration of the Administrative Law Judge (ALJ) Brian Brendan  
9 Tully's proposed Findings of Fact and Conclusions of Law and Recommended Order.  
10 Richie P. Bast, M.D., ("Respondent") appeared before the Board with legal counsel R.  
11 John Lee, Assistant Attorney General Anne Froedge, represented the State. Chris  
12 Munns, Assistant Attorney General with the Solicitor General's Section of the Attorney  
13 General's Office, was present and available to provide independent legal advice to the  
14 Board.

15 The Board, having considered the ALJ's decision and the entire record in this  
16 matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

17  
18 **FINDINGS OF FACT**

- 19 1. The Arizona Medical Board ("Board") is the authority for licensing and regulating  
20 the practice of allopathic medicine in the State of Arizona.  
21 2. Richie R. Bast, M.D. ("Respondent") is the holder of License No. 14854 for the  
22 practice of allopathic medicine in Arizona.  
23 3. Respondent is a general practice physician in St. Johns, Arizona. Respondent  
24 enjoys strong community support, both personally and professionally. Originally,  
25 Respondent practiced as an anesthesiologist, but has been restricted from that  
practice due to his substance abuse addiction described in the following Findings  
of Fact.

- 1 4. On June 4, 2008, Board staff received an anonymous written complaint dated  
2 June 2, 2008. The confidential complaint reads as follows:

3 Because we live in such a small community and I fear repercussions  
4 from our church I cannot give my name. However, I have information  
5 about Dr. Bast that concerns the quality of care our families are  
6 receiving here in St. Johns.

7 Dr. Bast's family had an intervention with him for taking narcotics this  
8 just after being released by your office for the very same [sic]  
9 offense. He has taken back medication from patients and reissued  
10 new prescriptions. Rather than having the medication destroyed he  
11 is keeping them and taking them. He has even called medication in  
12 for staff and picked them up for himself. I know that for many years  
13 he has had to comply with drug screenings which I personally think  
14 need to be reinstated.

15 If the families in our community are to remain safe, I think someone  
16 needs to look into this matter before he hurts someone or possibly  
17 takes someone's life.

18 This can all be confirmed by his office manager.

19 Thank you

- 20 5. The Board designated the said complaint as Case No. MD-08-0612.  
21 6. By letter dated June 5, 2008, the manager of the Board's Physician Health  
22 Program, Kathleen Muller, advised Respondent that "[a]n investigation regarding  
23 the anonymous complaint that [Respondent] may have a substance abuse  
24 problem concerning medications not prescribed to [him] has been opened."  
25 Respondent was requested to provide Board staff a complete narrative response  
to the complaint no later than June 13, 2008.  
7. Greenberg and Sucher, P.C. has been the contracted administrator of the Board's  
Monitored Aftercare Program ("MAP").  
8. On June 9, 2008, Respondent participated in an investigational interview with Ms.  
Muller and Michel Sucher, M.D., who is the medical director of the Board's MAP.  
9. During the investigational interview, Respondent explained that he had been  
treated for a month at Valley Chandler Hope in 1995, and then a facility in Atlanta,

- 1 Georgia. Respondent also had been evaluated and treated at the Betty Ford  
2 Center from September 9, 2001 to November 20, 2001.
- 3 10. During the investigational interview, Respondent admitted that he is a drug addict.
- 4 11. During the investigational interview, Respondent also admitted that he intercepted  
5 and consumed prescription medications given to him, as a physician, instead of  
6 destroying the medications.
- 7 12. Respondent also informed Ms. Muller and Dr. Sucher that his drugs of choice were  
8 Fentanyl and sufentanil. During early 2008, Respondent took Percocet, Vicodin,  
9 and Tylenol #3, which were obtained from two or three of Respondent's patients.
- 10 13. At the request of Board staff, Respondent submitted to a Hair 5 Panel Plus  
11 Extended Opiates drug test on June 9, 2008. The result of the testing reported  
12 positive for Hydrocodone and positive for Oxycodone.
- 13 14. By email dated June 11, 2008, Dr. Sucher expressed the following opinions to Ms.  
14 Muller as a result of the investigational interview:
- 15 The facts in the interim consent agreement are correct. Dr. Bast has  
16 a diagnosis of chemical dependency in relapse. He admitted during  
17 our interview on 6/9/08 that he had taken vicodin, percocet and  
18 tylenol #3 with codeine. These were not prescribed for Dr. Bast for a  
19 proper purpose. He is unsafe to practice medicine.
- 20 15. On June 11, 2008, Respondent executed an Interim Consent Agreement For  
21 Practice Restriction, wherein he consented to the following Findings of Fact,  
22 Interim Conclusions of Law, and Interim Order:
- 23 **FINDINGS OF FACT**
- 24 1. The Board is the duly constituted authority for the regulation and  
25 control of the practice of allopathic medicine in the State of Arizona.
2. Respondent is the holder of License No. 14854 for the practice of  
allopathic medicine in the State of Arizona.
3. On September 9, 1995, Respondent entered into a Stipulation  
Rehabilitation Agreement. Respondent subsequently violated the

1 terms of his Agreement and was placed on Probation on May 16,  
2 2000.

- 3 4. In 2001, Respondent relapsed and signed a Consent Agreement and  
4 Order for Suspension and Probation which became effective on June  
5 6, 2002. Respondent successfully completed MAP on June 6, 2007.
- 6 5. On June 4, 2008, the Board received an anonymous complaint  
7 stating that Respondent may have a substance abuse problem  
8 concerning medications not prescribed to him.
- 9 6. On June 9, 2008, Board Staff and Michel Sucher, M.D. met with  
10 Respondent, who admitted relapsing on Vicodin, Percocet and  
11 Tylenol #3; [sic] which were not prescribed to him.
- 12 7. Based on the information in the Board's possession, it is the Board's  
13 position that there is evidence that if Respondent were to practice  
14 medicine in Arizona at this time there would be a danger to the public  
15 health and safety.

#### 16 INTERIM CONCLUSIONS OF LAW

- 17 1. The Board possesses jurisdiction over the subject matter hereof and  
18 over Respondent.
- 19 2. The Executive Director may enter into a consent agreement with a  
20 physician if there is evidence of danger to the public health and  
21 safety. A.R.S. § 32-1405(C)(25); A.A.C. R4-16-504

#### 22 INTERIM ORDER

23 IT IS HEREBY AGREED THAT:

- 24 1. Respondent shall not practice clinical medicine or any medicine  
25 involving direct patient care, and is prohibited from prescribing any  
form of treatment including prescription medications, until  
Respondent applies to the Board and receives permission to do so.
2. This is an interim order and not a final decision by the Board  
regarding the pending investigative file and as such is subject to  
further consideration by the Board.

16. Ms. Muller authored an Investigative Report dated July 9, 2008 in Case No. MD-  
08-0612. Her report concluded that the investigation supported the following  
violations by Respondent: A.R.S. §§ 32-1401(27)(f) (Habitual intemperance in the  
use of alcohol or habitual substance abuse) and 32-1401(27)(g) (Using controlled

1 substances except if prescribed by another physician for use during a prescribed  
2 course of treatment).

- 3 17. Ms. Muller further opined that Respondent was not currently eligible to enter the  
4 Board's MAP program due to the Board's "three strike" policy, and the provisions  
5 of A.R.S. § 32-1452(G), which reads as follows:

6 The board shall revoke the license of a doctor of medicine if that  
7 doctor is impaired by alcohol or drug abuse and was previously  
8 placed on probation pursuant to subsection F of this section and the  
9 probation is no longer in effect. The board may accept the surrender  
10 of the license if the doctor admits to being impaired by alcohol or  
11 drug abuse.

- 12 18. Ms. Muller's Investigative Report further noted that Respondent refused to sign a  
13 Consent Agreement for Surrender of License.

- 14 19. By letter dated July 24, 2008, Ms. Muller gave Respondent "the opportunity to  
15 address the information contained in the Investigative Report" in writing by August  
16 7, 2008.

- 17 20. Respondent did not file a written response to the Investigative Report by August 7,  
18 2008.

- 19 21. By letter dated August 19, 2008, Respondent's newly retained attorney, R. John  
20 Lee, Esq., advised Ms. Muller that Respondent "intends to take all action  
21 necessary to preserve his medical license." Mr. Lee requested a hearing on the  
22 issue of impairment.

- 23 22. On or about September 11, 2008, Case No. MD-08-0612A was presented to the  
24 Board's Staff Investigational Review Committee ("SIRC") for a review and a  
25 recommendation.

- 26 23. After completing its review, the SIRC issued a written Recommendation dated  
27 September 11, 2008.

- 28 24. The SIRC Recommendation lists the following Legal Mitigating/Aggravating  
29 Factors:

Prior Board History:

**6/11/2008 – Interim Practice Restriction** – Shall not practice clinical medicine or any medicine involving direct patient care, and is prohibited from prescribing any form of treatment including prescription medications, until applying to the Board and receiving permission to do so.

**6/9/2008 – Shall undergo a biological fluid test and hair analysis** at a Board approved facility by 5 p.m. on 6/9/08, at his expense.

**7/7/2005 – June 5, 2002 Order Amended** (paragraph 3(b)) – Shall practice in association with and under supervision of licensed allopathic physician in good standing, shall collaborate as necessary regarding patient care. Vacated 6/6/07

**8/21/2001 – Stayed Revocation with Practice Restriction** – Unprofessional conduct (using controlled substances; violating a Board order) Shall not practice clinical medicine. 6-6-02 Amended: May resume practice. 5yr Probation - terminated 6/6/07. Shall not practice anesthesiology – remains in effect.

**6/22/2001 – Summary Suspension** – Emergency action pending formal administrative hearing – Unprofessional conduct (habitual intemperance in the use of alcohol/habitual substance abuse; violating a Board order). Order terminated – see 8-21-01 Order.

**4/28/2000 – Probation 2yrs (Practice Restriction) w/1yr stayed suspension.** Shall participate in Monitored Aftercare Program. Shall practice only in a group setting. Violation will result in suspension of lic. Order terminated – see 8-21-01 Order.

**1/19/1996 – Consent Agreement – Practice Restriction** (shall not engage in the practice of anesthesia until further order of the Board)

1/19/96 – Amendment (shall practice medicine in group setting only). Stipulation terminated 6/6/07. (Emphasis in the original).

25. The SIRC recommended the revocation of Respondent's medical license.
26. The Board forwarded Case No. MD-08-0612 to the Office of Administrative Hearings, an independent agency, for formal hearing. The case was designated as Docket No. 09A-14854-MDX.
27. The Board issued a Complaint and Notice of Hearing in Docket No. 09A-14854-MDX.
28. At the commencement of the hearing, Respondent stipulated to a violation of A.R.S. § 32-1401(27)(g), as alleged by the Board in the Complaint.
29. Respondent's long history with the Board began with a Rehabilitation Stipulation and Order, effective January 19, 1996, the terms of which are incorporated herein

1 by reference. Respondent had problems with IV medications, which he self-  
2 administered. Respondent was required, among other things, to participate in  
3 MAP.

4 30. On May 16, 2000, the Board's Executive Director, Claudia Foutz, approved the  
5 Consent Agreement for Order of Probation in Investigation No. 13536.  
6 Respondent was required, among other things, to participate in MAP.

7 31. On June 25, 2001, the Board's Deputy Director, Tom Adams, approved the  
8 issuance of Interim Findings of Fact, Conclusions of Law, and Order for Summary  
9 Suspension of License in Case No. MD-00-0135.

10 32. On August 17, 2001, Ms. Foutz approved the Consent Agreement and Order for  
11 Suspension and Probation in Case No. MD-00-0135. Respondent had stipulated  
12 to the following Findings of Fact, among others:

- 13 3. On May 16, 2000, Dr. Bast entered into a Consent Agreement with  
14 the Board which suspended his license for one year for violating  
15 the terms of a previous Stipulated Rehabilitation Agreement with  
16 the Board dated January 8, 1996. The one year suspension was  
17 stayed, and Dr. Bast was placed on two year probation in the  
18 Board's Monitored Aftercare Program.
- 19 4. Under the terms of the May 16, 2000 Consent Agreement, Dr. Bast  
20 was prohibited from taking any medication, except in an  
21 emergency, unless prescribed by his Board-approved primary care  
22 physician or other health care provider to whom the Board-  
23 approved primary care physician makes referral. Such medication  
24 included any "prescription-only drug, controlled substances, and  
25 over-the-counter preparation, other than plain aspirin and plain  
acetaminophen." Dr. Bast was expressly prohibited from self-  
prescribing such medication.
5. Also under the terms of the May 16, 2000 Consent Agreement, Dr.  
Bast was required to submit to random biological fluid testing.
6. On October 26, 2000, Dr. Bast was asked to submit a biological  
fluid sample for testing. When he submitted that sample, Dr. Bast  
disclosed that he had taken Orlistat in the previous fourteen days.
7. Orlistat is a reversible lipase inhibitor used to manage obesity,  
including weight loss and weight management.
8. On November 15, 2000, Dr. Bast was asked to submit a biological  
fluid sample for testing. When he submitted that sample, Dr. Bast  
disclosed that he had taken Orlistat in the previous fourteen days.

- 1 9. On January 30, 2001, Dr. Bast was asked to submit a biological  
2 fluid sample for testing. When he submitted that sample, Dr. Bast  
disclosed that he had taken Ultram in the previous fourteen days.
- 3 10. Ultram is a synthetic analgesic used to manage moderate to  
4 moderately severe pain. Ultram is not recommended for use by  
5 patients with a tendency to drug abuse or a history of drug  
6 dependency because it has the potential to cause morphine-like  
7 psychic and physical dependency.
- 8 11. In a letter dated February 6, 2001, the Board staff asked Dr. Bast  
to identify the physician who prescribed Ultram medication to him,  
9 and state the reason why that medication was prescribed.
- 10 12. In a letter dated February 15, 2001, Dr. Bast informed the Board  
11 that his primary care physician had prescribed Ultram to relieve his  
12 lower back pain.
- 13 13. On February 27, 2001, the Board staff subpoenaed Dr. Bast's  
14 medical records from his primary care physician. The primary care  
15 physician provided the medical records, and explained that Dr.  
16 Bast informed him on February 11, 2001 that he had taken three  
17 Ultram tablets. The medical records confirm that the primary care  
18 physician did not prescribe Orlistat or Ultram for Dr. Bast.
- 19 14. In a letter dated April 24, 2001, Dr. Bast admitted that he obtained  
20 two Ultram tablets from his wife, for whom they had been  
21 prescribed by another physician for a foot injury approximately one  
22 year earlier. Dr. Bast also admitted that he obtained Orlistat  
23 samples from a pharmaceutical representative.
- 24 15. On May 23, 2001, Dr. Bast met with the Monitored Aftercare  
25 Program's Diversion Committee. During that meeting, Dr. Bast  
acknowledged that he self-prescribed Ultram and Orlistat in  
violation of the terms of the May 16, 2000 Consent Agreement.
33. The 2001 Consent Agreement in Case No. MD-00-0135 concluded by stipulation  
that Respondent violated the provisions of A.R.S. § 32-1401(25) (g), (r), and (jj).
34. On June 5, 2002, Ms. Foutz approved an Amended Consent Agreement and  
Order for Stayed Revocation and Probation in Case No. MD-00-0135. Respondent  
was permitted to return to practice.
35. On August 24, 2004, the Board's Assistant Director approved the issuance of an  
Amendment to Amended Consent Agreement and Order for Stayed Revocation  
and Probation dated June 5, 2002. The amendment applied to Paragraph 3(c) of  
the Order, which redefined an acceptable practice situation.



- 1 36. By letter dated June 6, 2007, Board staff advised Respondent that his probation  
2 had terminated by operation of law. However, Respondent was still restricted from  
3 practicing anesthesiology.
- 4 37. In April or May 2008, Respondent's wife, oldest son, and office manager  
5 performed an intervention with Respondent after his wife became aware that he  
6 was taking drugs.
- 7 38. Respondent testified that he used Ritalin without a prescription. Although  
8 Respondent did disclose his use of Ritalin at the investigational interview with Ms.  
9 Muller and Dr. Sucher on June 9, 2008, he stated that his primary care physician  
10 had prescribed the Ritalin for ADHD. However, he did not disclose that he  
11 consumed Ritalin without a prescription.
- 12 39. Respondent further testified that his drug use has not impacted other areas of his  
13 life.
- 14 40. Since being released from the MAP in 2007, Respondent has not participated in a  
15 12-step program or monitoring.
- 16 41. Despite Respondent's family intervention over his drug usage, his knowledge of  
17 the anonymous complaint, his admission of drug usage at the investigational  
18 interview, and the Interim Consent Agreement for Practice Restriction dated June  
19 11, 2008, Respondent has not sought treatment or monitoring for his drug  
20 addiction.
- 21 42. Respondent testified that he now thinks treatment and monitoring is a good idea.  
22 Such testimony is deemed not credible given Respondent's failure to voluntarily  
23 seek treatment and monitoring after relapsing in 2008.
- 24 43. Respondent's testimony that Dr. Greenberg told him to fight for his medical license  
25 is not found to be credible. Dr. Sucher testified that during a break after that  
testimony, he spoke by telephone with Dr. Greenberg, who denied ever giving  
Respondent such advice.
44. Dr. Sucher expressed serious concerns about Respondent, specifically that  
Respondent has a well-established diagnosis of opioid addiction, and Respondent

1 has been through treatment and MAP for 12 years, but has relapsed twice due to  
2 his failure to continue with disease management.

3 45. Laurette Platt, R.N. testified for Respondent. She has been a professional nurse  
4 for 25 years. She grew up in St. Johns, and presently lives there.

5 46. Ms. Platt has worked for Respondent's practice part-time for several years. She  
6 never observed Respondent impaired while she worked for him. Ms. Platt opined  
7 that Respondent is not an impaired physician.

8 47. On cross-examination, the Board's counsel asked Ms. Platt if she was familiar with  
9 Phentermine. Ms. Platt answered that it is a pill, which she has never taken  
10 because of the way the medication affects the heart.

11 48. The Board's counsel then produced a pharmacy survey, which showed that  
12 Respondent had prescribed Phentermine to Ms. Platt on May 9, 2008. Ms. Platt  
13 testified that she did not recall that prescription, that she did not consume the  
14 medication, but that she may have given such medication to her adult daughter,  
15 who was not named on the prescription. Ms. Platt's testimony concerning possible  
16 diversion of a prescription medication raises grave concerns about her credibility,  
17 especially since she is a professional nurse.

18 49. Later during Respondent's cross-examination, Respondent testified that he was  
19 not sure if he wrote the prescription for Ms. Platt in May 2008. Ms. Platt did not  
20 work for his practice at that time. Respondent testified that Phentermine is a  
21 Schedule III narcotic, which has addictive properties.

22 50. During the June 9, 2008 investigational interview, the following exchange took  
23 place between Dr. Sucher and Respondent:

24 Dr. Sucher: Well I think whoever wrote this letter was worried that if  
25 you continue to use these drugs that, you know, that  
could impact your care of patients (inaudible), and,  
and, and I don't think they're saying you hurt anybody,  
they're just worried that you could.

Dr. Bast: And I could've.

51. Respondent's response to Dr. Sucher's statement in the above Finding is an  
admission by Respondent that he potentially could have harmed patients while

1 using drugs. His statement was not a response to a hypothetical, as claimed by  
2 Respondent.

- 3 52. The above Findings of Facts support a finding that Respondent is an impaired  
4 physician, who poses a risk to the public health, safety, and welfare if permitted to  
5 practice allopathic medicine.

### 6 **CONCLUSIONS OF LAW**

- 7 1. The Board has jurisdiction over Respondent and the subject matter in this case.  
8 2. Pursuant to A.R.S. § 41-1092.07(G) (2) and A.A.C. R2-19-119(B), the Board has  
9 the burden of proof in this matter. The standard of proof is preponderance of the  
10 evidence. A.A.C. R2-19-119(A).  
11 3. Pursuant to A.R.S. § 32-1451(A), the Board may investigate an anonymous  
12 complaint against a licensed allopathic physician. Further, the identity of the  
13 anonymous complainant is non-public information.  
14 4. Respondent stipulated to the Board's allegation that he committed unprofessional  
15 conduct pursuant to A.R.S. § 32-1401(27) (g) ("[u]sing controlled substances  
16 except if prescribed by another physician for use during a prescribed course of  
17 treatment").  
18 5. The evidence of record supports the conclusion that Respondent violated the  
19 provisions of A.R.S. § 32-1401(27) (f) ("[h]abitual intemperance in the use of  
20 alcohol or habitual substance abuse"), as to his habitual substance abuse but not  
21 to the use of alcohol. There is no evidence that Respondent has a habitual  
22 intemperance in the use of alcohol. However, the above Findings of Fact  
23 supporting the conclusion that Respondent has a long history of habitual  
24 intemperance in the use of drugs.  
25 6. The above Findings of Fact support the conclusion that Respondent is mentally  
and/or physically unable to safely practice allopathic medicine due to his long  
history of habitual intemperance in the use of drugs, pursuant to A.R.S. § 32-  
1451(M).

1 7. The above-provided Findings of Fact support the conclusion that the elements of  
2 A.R.S. § 32-1452(G) have been established by the Board. Respondent's habitual  
3 substance abuse has been established by the evidence of record. Therefore,  
4 Respondent's license to practice allopathic medicine must be revoked, pursuant to  
5 A.R.S. § 32-1452(G).

6 **ORDER**

7 Respondent's License No. 14854 shall be revoked on the effective date of the  
8 Order entered in this matter.

9 Pursuant to A.R.S. § 32-1451(M), Respondent shall be charged the costs of formal  
10 hearing. Respondent shall submit payment of those costs within 30 days from receipt of a  
11 bill or invoice from the Board.

12 **RIGHT TO PETITION FOR REHEARING OR REVIEW**

13 Respondent is hereby notified that he has the right to petition for a rehearing or  
14 review. The petition for rehearing or review must be filed with the Board's Executive  
15 Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The  
16 petition for rehearing or review must set forth legally sufficient reasons for granting a  
17 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days  
18 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not  
19 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to  
20 Respondent.

21 Respondent is further notified that the filing of a motion for rehearing or review is  
22 required to preserve any rights of appeal to the Superior Court.

23 ///

24 ///

1 DATED this 3<sup>rd</sup> day of June, 2009.



THE ARIZONA MEDICAL BOARD

By 

LISA WYNN  
Executive Director

7 ORIGINAL of the foregoing filed this  
8 3<sup>rd</sup> day of June, 2009 with:

9 Arizona Medical Board  
10 9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

11 COPY OF THE FOREGOING FILED  
this 3<sup>rd</sup> day of June, 2009 with:

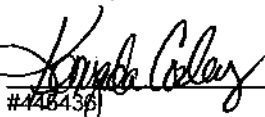
12 Cliff J. Vanell, Director  
13 Office of Administrative Hearings  
14 1400 W. Washington, Ste 101  
Phoenix, AZ 85007

15 Executed copy of the foregoing  
16 mailed by U.S. Mail this  
3<sup>rd</sup> day of June, 2009 to:

17 Richie P. Bast, M.D.  
Address of Record

18 R. John Lee Esq.  
19 P.O. Box 2280  
St. Johns, AZ 85936-2280

20 Anne Froedge  
21 Assistant Attorney General  
22 Office of the Attorney General  
CIV/LES  
23 1275 W. Washington  
Phoenix, AZ 85007

24   
#448436